

SERVICE DATE - JULY 11, 2001

This decision will be included in the bound volumes of the STB printed reports at a later date.

SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 33388

CSX CORPORATION AND CSX TRANSPORTATION, INC.,  
NORFOLK SOUTHERN CORPORATION AND  
NORFOLK SOUTHERN RAILWAY COMPANY  
— CONTROL AND OPERATING LEASES/AGREEMENTS —  
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

Decision No. 192

Decided: July 6, 2001

Environmental Condition No. 36(B) of Appendix Q of Decision No. 89<sup>1</sup> (Decision No. 89, slip op. at 414) requires NS, with the concurrence of the City of Oak Harbor, OH, to provide, install, and maintain a real-time train location monitoring system to improve local emergency response vehicle dispatching. Environmental Condition No. 36(B) further provides: “At a minimum, the system shall use appropriate technology to detect trains approaching the city on NS rail line segments N-079, N-077, N-294, and N-483 and shall display the train locations at an emergency response center to be specified by the City.”

On May 21, 2001, NS provided us with a copy of a Negotiated Agreement between NS and the Village of Oak Harbor, OH, dated May 2, 2001, and accepted by the Village of Oak Harbor on May 15, 2001. According to NS, this Negotiated Agreement effectuates the Board’s preference for privately negotiated solutions stated in Decision No. 89, slip op. at 153. In view of the Negotiated Agreement with the Village of Oak Harbor, NS requests that the Board issue an order providing that Environmental Condition No. 51 of Appendix Q of Decision No. 89 be amended by adding this Negotiated Agreement to the list of Negotiated Agreements entered into by NS, and that Environmental Condition No. 36(B) of Appendix Q of Decision No. 89 be superseded by the Negotiated Agreement. Environmental Condition No. 51 requires NS to comply with the terms of all Negotiated Agreements developed with states, local communities, and other entities regarding environmental issues associated with the Conrail transaction. See Decision No. 89, slip op. at 420-21. The Village of Oak Harbor concurs with the request.

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<sup>1</sup> In Decision No. 89, served July 23, 1998, we approved, subject to certain conditions, including environmental mitigation conditions, the acquisition of control of Conrail Inc., and Consolidated Rail Corporation (collectively, Conrail) and the division of Conrail’s assets by CSX Corporation and CSX Transportation, Inc. (collectively, CSX), and by Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, NS). CSX and NS are referred to as Applicants.

In view of the Negotiated Agreement between NS and the Village of Oak Harbor, OH, we will: (1) add the Negotiated Agreement to Environmental Condition No. 51 of Appendix Q of Decision No. 89; and (2) delete Environmental Condition No. 36(B) of Appendix Q of Decision No. 89, which has been superseded by the Negotiated Agreement.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. In accordance with the Negotiated Agreement between NS and the Village of Oak Harbor, OH, dated May 2, 2001, and accepted by the Village of Oak Harbor on May 15, 2001, the following is added to the NS Subsection of Environmental Condition No. 51 of Appendix Q of Decision No. 89:

**28. Village of Oak Harbor, Ohio, Negotiated Agreement dated May 2, 2001, and accepted by the Village of Oak Harbor on May 15, 2001.**

3. In addition, Environmental Condition No. 36(B) of Appendix Q of Decision No. 89 is deleted because the mitigation requirement for that condition has been superseded by the parties' Negotiated Agreement.
4. This decision is effective on the date of service.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams  
Secretary